

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): James N. Ray Art Unit: 1762
Serial No.: 10/726,358 Examiner: Brenda Adele Lamb
Filing date: December 3, 2003
For: CELLULOSE PRESERVATIVE METHOD AND APPARATUS

REMARKS

In response to the Examiner's request under 37 C.F.R. §1.83(a) for an amendment to the drawing in the application as filed that will show a discharge pump for selectively withdrawing fluid from the pressure vessel and returning fluid to the work tank, attention is invited to the drawing Replacement Sheet and the companion Annotated Sheet submitted with this response in accordance with Manual of Patent Examining Procedure Section 608.02(v). As now illustrated in the sole figure of the drawing, a pump 50 is connected from the pressure vessel 31 to the work tank 10. As described in the application when filed, at page 10, lines 1 through 4:

With respect to the steps of draining the pressure vessel 31,
...it has been found...preferable to provide a separate
pump...to evacuate the mixture from the pressure vessel 31.

In the Replacement Sheet, a pump 50 has been added between the pressure vessel 31 and the work tank 10 to provide this transfer function and the corresponding paragraph in the specification has been amended to reflect the addition of the reference numeral 50.

Accordingly, applicant respectfully urges that the need to satisfy 37 C.F.R. §1.83(a) without adding new matter to the application has been met through the Replacement Sheet submitted herewith and that this rejection should be withdrawn.

As noted above with respect to the revision to the drawing that illustrates a pump for discharging fluid from the pressure vessel 31 to the work tank 10, this specific feature of the

invention was disclosed in the application as filed. To conform the addition of reference numeral 50 in the Replacement Sheet with the specification, the paragraph on page 10, lines 1 through 4, inclusive, was amended by adding the reference numeral 50 to the specification through the enclosed Amendment to the Specification. The amended passage in the specification now states, in relevant part:

...a separate discharge pump 50 to evacuate the mixture from
the pressure vessel 31.

Applicant, accordingly, urges that the specification now provides an appropriate antecedent basis for the discharge pump recitation in Claim 12 as required under 37 C.F.R. §1.75(d)(1).

With respect to the means for replenishing the preservative in the work tank 10 that is recited in independent Claim 9, attention is further invited to the following quotations from the application as filed:

...more preservative is added to the mixture remaining in the
work tank 10 in order to maintain a reserve of heated and
mixed water and preservative at full concentration strength....

(Specification, p.8, lines 6 to 8)

and

...the filler cap 42 is removed from the work tank 10. A
preservative and a suitable quantity of water is introduced into
the work tank 10 through the opening provided by removal of
the filler cap to provide the mixture 13.

(Specification, p. 6, lines 18 to 20)

and

...a further charge of preservative is stirred into the mixture

13, if needed, in order to bring the mixture up to the desired concentration strength....

(Specification, p. 8, lines 20 to 22)

and

In this manner, the mixture, at essentially full preservative strength is continuously circulated throughout the treatment system.

(Specification, p. 9, lines 1 and 2)

and

...This continued replenishment of preservative within the mixture 13 and recirculation of a heated mixture produces a significantly improved product in which the preservative distribution and concentration is superior to that provided by prior art methods.

(Specification, p. 9, lines 12 to 15)

Consequently, applicant respectfully submits that the “means for replenishing” recited in the claims is illustrated in the drawing as filed by the filler cap 42. In this way, it is respectfully urged, the objection to the claimed “means for replenishing” under 37 C.F.R. §1.75(d)(1) is satisfied in the drawing as filed through the filler cap 42 and, accordingly, this objection should be withdrawn.

Applicant respectfully traverses the rejection of independent Claim 9, and Claims 11 and 12 that each depend directly on Claim 9 under 35 U.S.C. §103(a) as unpatentable over S.E. Dahlgren United States Patent No. 3,801,360 granted April 2, 1974, for “Method for Controlling the Level of the Pressure in the Low Pressure Phase of an Oscillating Pressure Impregnating Process” in view of J.E.C. Bongrand et al. United States Patent No. 1,986,319 granted January 1,

1935, for “Process of Manufacture of Threads of Textile Material”. The Examiner’s attention in this respect is invited to the amendments to independent Claim 9. The Dahlgren ‘360 reference, for example, does not show or suggest the “means for selectively replenishing said depleted preservative in said work tank with more of the preservative” that now characterizes amended Claim 9.

The Bongrand et al. ‘319 citation, however, also fails to show or to suggest the claimed means for selectively replenishing the depleted preservative in the work tank. For example, Bongrand et al. ‘319 teaches:

...the container b is filled through the intermediary of the filling vat i, with the impregnating dispersion....When the pressure has fallen to zero in the container b the cock u is opened...to allow the liquid which is in a to return into b....

Bongrand et al. ‘319 p.2, line 37 to 57

Clearly, Bongrand et al. ‘319 fails to suggest replenishing a depleted impregnating dispersion in the container b with a charge of dispersion that will bring the depleted dispersion to an essentially full strength mixture, but simply fills the container b from the vat i. To further support this inadequacy in the Bongrand et al. ‘319 teaching attention also is invited to the following Bongrand et al. passage at p. 2, line 61 and 62:

The operation as described may be repeated several times if desired.

Thus, it is clear that the Bongrand et al. ‘319 disclosure only proposes to fill the container b from the filling vat i and to refill the container b at the beginning of each treatment cycle. There is, moreover, no suggestion in the Dahlgren ‘360 reference that would at all suggest to person of ordinary skill applicant’s claimed means for selectively replenishing the depleted preservative in the work tank with more of the preservative. Consequently, applicant urges that it is only with the

benefit of a hindsight provided by applicant's own teaching that it is possible for a person of ordinary skill to redesign the Bongrand et al. '319 vat i; to resupply some depleted constituent in the Bongrand '319 "impregnating liquid".

In the circumstance, it is respectfully urged that the means recited in independent Claim 9 for selectively replenishing said depleted preservative in said work tank with more preservative patentably distinguishes independent Claim 9 from the combination of Dahlgren '360 and Bongrand et al. '319. Accordingly, withdrawal of this rejection is respectfully urged.

Claims 11 and 12 each depend directly on Claim 9 and are patentably distinguishable over the combined Dahlgren '360 and Bongrand et al. '319 references for the reason advanced above with respect to Claim 9, apart from the additional features of the invention that characterize these claims. Accordingly, allowance of depending Claims 11 and 12 also is respectfully requested.

Applicant also asks that the further rejection of Claim 10, which depends directly on independent Claim 9 over Dahlgren '360, Bongrand et al. '319 and the further citation of P. Vinden et al. United States Patent No. 6,235,403 granted May 22, 2001, for "Process of Treating Wood with Preservative" be withdrawn. Applicant respectfully urges that depending Claim 10 distinguishes patentably over the combination of Dahlgren '360 and Bongrand et al. '319 for the reasons now of record with respect to Claim 9, on which Claim 10 depends. There is nothing, moreover, in Vinden et al. '403 that would in any way suggest to a person of ordinary skill applicant's claimed means for selectively replenishing said depleted preservative in said work tank with more preservative. In this circumstance applicant further requests that the rejection of Claim 10 on the combined Dahlgren '360, Bongrand et al. '319, and Vinden et al. '403 references under 35 U.S.C. §103(a) be withdrawn.

In summary, it is respectfully submitted that the objection to the drawing under 37 C.F.R. §1.83(a) has been overcome without the addition of new matter through the Replacement Sheet enclosed with this response. In a similar manner, the specification, amended to recite the

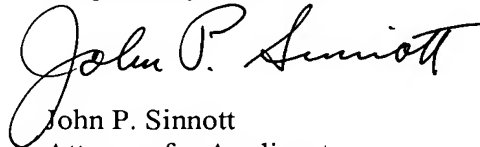
reference numeral added to the drawing, also without resort to new matter, overcomes the objection under 37 C.F.R. §1.75(d)(1). Applicant further submits that the filler cap 42 shown in the drawing on file provides an adequate basis for the recitation of means for selectively replenishing depleted preservative in amended independent Claim 9.

All of the claims on file, independent Claim 9 and depending Claims 11 through 12 that each depend directly on Claim 9 all recite means for selectively replenishing said depleted preservative in said work tank with more of the preservative. This feature of the invention, it is urged, distinguishes applicant's claimed invention structurally over the Dahlgren '360, Bongrand et al. '319 and Vinden et al. '403 references when taken either individually or collectively. It is, moreover, this salient characteristic of the claimed invention that the cited art fails to suggest to a person of ordinary skill.

Accordingly, acceptance of the revised drawing sheet and early allowance of Claims 9 through 12, inclusive is earnestly solicited.

The Examiner is further asked to telephone applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application.

Respectfully submitted,



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ANNOTATED SHEET

TITLE: Cellulose Preservative Method and Apparatus
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APPLICATION NO: 10/726,358

